

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

DAVID WAYNE WALDREP,)	
)	
Plaintiff)	
)	
vs.)	7:17-cv-00601-RDP
)	
COMMISSIONER, SOCIAL SECURITY)	
ADMINISTRATION,)	
)	
Defendant)	

MEMORANDUM OPINION


On June 19, 2018, the Magistrate Judge entered a report and recommendation and allowed the parties therein fourteen (14) days in which to file objections to the recommendations made by the Magistrate Judge. On July 3, 2018, Plaintiff filed objections to the report and recommendation, arguing that the Magistrate's finding on Plaintiff's credibility is not supported by substantial evidence. (Doc. #14 at 1).

After careful consideration of the record in this case, the Magistrate Judge's report and recommendation, and Plaintiff's objections, the court hereby **ADOPTS** the report of the Magistrate Judge. The court further **ACCEPTS** the recommendations of the Magistrate Judge that the decision of the Commissioner be affirmed and **OVERRULES** Plaintiff's objections. The Magistrate and the ALJ properly considered the Eleventh Circuit pain standard as well as Plaintiff's

testimony and inconsistencies between that testimony and the medical evidence. *See Wilson v. Barnhart*, 284 F.3d 1219, 1225 (11th Cir. 2002); *see also Duval v. Commissioner*, 628 Fed. Appx. 703, 711 (11th Cir. 2015) (“If the record shows that the claimant has a medically determinable impairment that could be expected to produce his symptoms, the ALJ must evaluate the intensity and persistence of the symptoms in determining how they limit the claimant’s capacity for work.”). That is, although Plaintiff’s 2015 MRI revealed a “Schmorl’s node indentation,” this diagnosis or “deviation from purely medical standards of bodily perfection or normality” is insufficient for a finding of disability. *McCruter v. Bowen*, 791 F.2d 1544, 1547 (11th Cir. 1986). Plaintiff must credibly show the effect of the impairment on his ability to work, and this he has failed to do. *Id.*

The court will enter a separate order in conformity with this Memorandum Opinion.

DONE and **ORDERED** this July 6, 2018.


R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE